

4 - Compensation

What is the process for claiming damages from the offender? (e.g. court case, becoming a civil party or lodging a civil action)

You can claim damages from the offender by becoming a civil party in the criminal proceedings. You should take this course of action before the commencement of the preparatory inquiry. The judicial bodies must inform you of this right. You may become a civil party in the criminal proceedings either orally or in writing. However, you must specify the damages claimed, the reasons and the evidence underlying your claim.

This claim may be lodged either with the prosecutor's office or with the court that will deal with the substance of the case.

The court sentence will also include the damages ordered by the court against the offender.

If you are not a civil party in the criminal proceedings, you may still lodge a separate action with the civil court in order to claim damages.

The court ordered the offender to pay me damages/compensation. How do I make sure the offender pays?

As long as there is a judgment in place ordering the offender to pay damages, he/she must do so without the need for you to take any further action. If the offender fails to pay, you may seek the enforcement of the judgement.

In order to do this, you must submit the judgement awarding you compensation to a bailiff. The bailiff will act for the enforcement of the court decision and will tell you what to do next.

If the offender does not pay, can the state pay me an advance? Under what conditions?

The state can pay you compensation under certain conditions.

If the offender is insolvent or is missing, the state can pay you compensation, provided that you lodge an application for financial compensation. You should lodge the application within one year. The date on which the term begins to run depends on the solution ordered by the judicial bodies.

If the offender is unknown, you should lodge the application for financial compensation within 3 years from the perpetration of the offence, unless you have obtained full compensation from an insurer.

You may submit an application for an advance payment of the financial compensation. In order to do this, you should first submit the application for financial compensation as mentioned above. The advance payment may be requested in the application for financial compensation or subsequently within 30 days. You are entitled to an advance payment provided that you are in a precarious financial position.

If your application for damages/compensation is dismissed, you must refund the advance money received. The application for financial compensation should be lodged with the tribunal under whose jurisdiction you reside.

Am I entitled to compensation from the state?

Yes. Financial compensation is granted, upon request, if you are the victim of an attempt to commit aggravated murder or murder, physical assault, crime committed with intent resulting in bodily injury, rape, a sexual act with a minor or sexual assault, human trafficking or trafficking in minors, a terrorist offence or of any other violent crime committed with criminal intent.

You can obtain financial compensation if one of the above offences was committed on Romanian territory and you are a Romanian citizen, a foreign citizen or a stateless person legally residing in Romania, a citizen of a Member State of the European Union, legally present in Romania at the time the crime was committed, or a foreign citizen or stateless person residing in the territory of a Member State of the European Union legally present in Romania at the time the crime was committed.

Compensation is granted only if you have referred the matter to the criminal investigation authorities within 60 days of the date on which the offence was committed. If the victim was physically or mentally unable to notify the criminal investigation authorities, the 60-day deadline shall be calculated from the date on which this inability ceases.

If you are under 18, you are not obliged to report the crime to the criminal investigation authorities, your legal representative can do so on your behalf. If your legal representative has not applied for financial compensation within the prescribed time limits, these periods shall begin to run from the date on which you reach the age of 18.

If the offender is known, financial compensation may be granted to you providing the following conditions are met:

- you have applied for financial compensation within one year;
- you have brought a civil claim as a civil party to the criminal proceedings, unless the case has been closed;
- the perpetrator is insolvent or cannot be found;
- you have not received full compensation for the damage incurred from an insurance company.

If you are unable to make your claim for financial compensation, the one-year deadline is calculated from the date on which the inability ended.

If the offender is unknown, you can apply for financial compensation within 3 years from the date on which the offence was committed.

You are entitled to financial compensation for the following categories of damage suffered as a result of the crime: hospitalisation and other medical expenses; the material injury resulting from the destruction or degradation of a victim's assets or because the assets have been rendered useless or the victim has been dispossessed as a consequence of the crime; the gains you are deprived of due to the crime.

If you are a surviving spouse, child or dependant of a deceased victim, you are entitled to financial compensation for funeral costs and maintenance that the victim is deprived of due to the crime.

You can also claim financial compensation for the psychological damage suffered as a result of the crime.

To cover any urgent needs, you may receive an advance on the financial compensation in the form of a voucher. Vouchers are awarded up to an amount equivalent to 5 basic gross minimum wages per country established for the year in which you request the advance. Vouchers shall be used exclusively to cover expenditure on food, accommodation, transport, medicine and sanitary supplies, as well as on items for hygiene and personal use, and shall be distributed through the competent public institutions and authorities, as well as associations and foundations active in the field of victim protection and social assistance. The advance on the financial compensation in the form of a voucher has to be paid back.

Am I entitled to compensation if the offender is not convicted?

If the criminal court does not award relief in respect of the civil claim, you may lodge a separate action with the civil court in order to claim damages.

If the criminal court rules that there is no offence or that it has not been committed by the person against whom

you have lodged the complaint, you will not be entitled to damages either in the criminal court or in a separate civil action, since the ruling of the criminal court acquires the force of *res judicata* before the civil court.

If you are not a civil party in the criminal proceedings, you may lodge a separate action in civil court during the criminal trial or even when it is over, subject to the general limitation periods.

Am I entitled to an emergency payment while I wait for the decision on my compensation claim?

Yes, under certain conditions. You may submit an application for an advance payment of the financial compensation. Please see the answer to the question on advance payments.

You can also benefit from an advance on the financial compensation in the form of a voucher to cover urgent needs. Vouchers are awarded up to an amount equivalent to 5 basic gross minimum wages per country established for the year in which you request the advance. Vouchers can only be used to cover expenses for food, accommodation, transport, medicines and sanitary supplies, as well as items for hygiene and personal use. Vouchers shall be distributed through competent public institutions and authorities, as well as associations and foundations active in the field of victim support and protection and social welfare.

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